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September 4, 2024

BY ECF

Hon. Andrew L. Carter, Jr.
United States District Court for the Southern District of New York
40 Foley Square, Room 435
New York, New York 10007
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RE: *Team Kennedy, et al. v. Berger, et al.*, No. 24-cv-03897-ALC (SDNY); Defendants' request for an extension of time to respond to the Amended Complaint

Dear Judge Carter:

This Office represents defendants Henry T. Berger, in his official capacity as the Co-Chair of the New York State Board of Elections (the "Board"); Peter S. Kosinski, in his official capacity as the Co-Chair of the Board; Essma Bagnuola, in her official capacity as a Commissioner of the Board; Anthony J. Casale, in his official capacity as a Commissioner of the Board; Kristen Zebrowski Stavisky, in her official capacity as Co-Executive Director of the Board; Raymond J. Riley, III, in his official Capacity as Co-Executive Director of the Board; and Letitia James, in her official capacity as the Attorney General of the State of New York (together, "Defendants"), in the above-referenced action.

I write pursuant to Your Honor's Individual Practices Rule 1(D) to request an extension of time for Defendants to respond to the Amended Complaint (ECF No. 32). Presently, the deadline to respond to the Amended Complaint is September 6, 2024, as Defendants were only served in this action on August 16, 2024.

Defendants request an extension of time to answer or respond to the Amended Complaint of thirty (30) days after Your Honor's decision on Plaintiffs' motion for a preliminary injunction (ECF Nos. 33-39) currently pending before the Court.

This is Defendants first request for an extension of time to respond to the Amended Complaint. The request does not affect any other dates.

Defendants reached out to Plaintiffs to ask whether they consent to the request pursuant to Individual Practices Rule 1(D). Plaintiffs oppose the request with the following reasoning: "The

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imminent election, which requires ballots to be printed on 9/13¹.” *See* Exhibit A. However, despite Plaintiffs’ apparent concerns, Defendants’ extension request will not affect the preliminary injunction motion, or any timing regarding the same, and therefore has no relevance to the printing of ballots. Moreover, Plaintiffs waited multiple months to serve Defendants in this action, and then moved by order to show cause for a preliminary injunction regarding only two of their claims shortly thereafter, and therefore Defendants need additional time to research all issues raised in the Amended Complaint. Moreover, the Court’s decision on Plaintiffs’ preliminary injunction motion may affect Defendants’ response to the Amended Complaint. Thus, Defendants’ request should be granted.

Thank you for Your Honor’s consideration of this request.

Respectfully submitted,

/s/ Erin R. McAlister

Erin R. McAlister

Assistant Attorney General

cc: All Counsel of Record (By ECF)

¹ Defendants note that the deadline for the Board to certify the November ballot is September 11, 2024, and the deadline to mail overseas and military ballots is September 20, 2024. *See* ECF No. ¶¶ 7-8. It is unclear which deadline Plaintiffs were referencing.